

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MONICA JARAMA, on behalf of herself
and others similarly situated,

Plaintiff,

MEMORANDUM & ORDER
20-CV-3463 (EK) (VMS)

-against-

85-16 FOOD CORP. d/b/a CEVICHERIA EL
REY, ISRAEL TELLEZ, and ROCIO RIOS,

Defendants.

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ERIC KOMITEE, United States District Judge:

The Court has received Magistrate Judge Scanlon's Report and Recommendation (R&R) dated August 21, 2023. ECF No. 59. Judge Scanlon recommends that I deny the defendants' motion for summary judgment. The defendants timely objected, raising fairly oblique challenges to the R&R's characterization of several pieces of evidence.

A district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). The district court reviews *de novo* those portions of an R&R to which a party has specifically objected. *Id.*; Fed. R. Civ. P. 72(b)(3); see also *Kruger v. Virgin Atl. Airways, Ltd.*, 976 F. Supp. 2d 290, 296 (E.D.N.Y. 2013) ("A proper objection is one that identifies the specific portions of the R&R that the objector asserts are

erroneous and provides a basis for this assertion."), *aff'd*, 578 F. App'x 51 (2d Cir. 2014). As to the portions of the R&R to which no party has sufficiently objected, the Court reviews for clear error on the face of the record. *See Advisory Comm. Notes to Fed. R. Civ. P. 72(b); accord State Farm Mut. Auto. Ins. Co. v. Grafman*, 968 F. Supp. 2d 480, 481 (E.D.N.Y. 2013).

Having conducted a *de novo* review of the portions of the R&R to which the defendants have objected, and a review of the remaining portions for clear error, I adopt the R&R in its entirety. Simply put, none of the defendants' objections dictate a different conclusion than the R&R recommended. Thus, the defendants' motion for summary judgment is denied.

The parties are directed to submit a proposed joint pretrial order, consistent with Rule V.A. of this Court's Individual Rules and Practices, on or before October 30, 2023.

SO ORDERED.

/s/ Eric Komitee
ERIC KOMITEE
United States District Judge

Dated: September 23, 2023
Brooklyn, New York